EUROPEAN
COMMISSION

Brussels, 12.2.2026
COM(2026) 66 final

2026/0042 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the 237th session of the Council of the International Civil Aviation Organization (ICAO), in respect of amendments 3, 12 and 15 of Annex 16, Volume I-III of the Chicago Convention concerning Standards and Recommended Practices relating to environmental protection

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns

(i) the position to be taken on behalf of the Union in the 237th session of the Council of the International Civil Aviation Organization (ICAO), in respect of proposals for the amendment of Annex 16, Volumes I-III of the Convention on International Civil Aviation ('the Chicago Convention'), concerning Standards and Recommended Practices relating to environmental protection.

(ii) the position to be taken on the Union's behalf after ICAO announces the adoption of amendments 15, 12, and 3 to Annex 16 to the Chicago Convention – *Environmental Protection*, inviting its Contracting States to notify any differences or compliance with the adopted measures.

2. CONTEXT OF THE PROPOSAL

2.1. The Convention on International Civil Aviation

The Convention on International Civil Aviation ('the Chicago Convention') aims to regulate international air transport. It entered into force on 4 April 1947 and established the International Civil Aviation Organization (ICAO).

All EU Member States are parties to the Chicago Convention.

2.2. The International Civil Aviation Organization

ICAO is a specialized agency of the United Nations. The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport.

Mandatory functions of the ICAO Council, listed in Article 54 of the Chicago Convention, include the adoption of International Standards and Recommended Practices (SARPs), designated as Annexes to the Chicago Convention.

The ICAO Council is a permanent body of the ICAO with a membership of 36 contracting States elected by the ICAO Assembly for a period of three years. France, Germany, Italy, Denmark, Spain, and Poland are currently represented in the ICAO Council.

The EU has observer status in ICAO.

2.3. The envisaged acts of the Council of the International Civil Aviation Organization

The International Standards and Recommended Practices (SARPs) on Environmental Protection have been adopted as Annex 16 to the Chicago Convention by the ICAO Council. Annex 16 has four volumes. The three volumes relevant for the present proposal have the following scope:

– Volume I concerning Standards and Recommended Practices relating to aircraft noise;

– Volume II concerning Standards and Recommended Practices relating to aircraft engine emissions;

– Volume III, concerning Standards and Recommended Practices relating to aeroplane CO_2 emissions;

The ICAO Council should, at its 237th Session from 23 March to 2 April 2026, consider possible changes to these Volumes. State Letters[1] were sent to ICAO States in July 2025 with the expected changes for their comments.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

3.1. Proposed amendments and their relationship with existing Union rules

It is necessary to adopt, ahead of the 237th Session of the ICAO Council, starting on 23 March 2026, the position on the Union's behalf to allow the Member States concerned to participate in the decisions on the proposed changes.

Regarding **Volume I**, the expected proposed amendments, as set out in the above-mentioned State Letter, include updates of the Part I definitions on derived versions, adding the definition for supersonic aeroplanes, and introducing typographical, editorial, and miscellaneous improvements. The proposal also includes a new landing and take-off (LTO) noise Standard for supersonic aeroplanes (as the new Chapter 15), and a new LTO noise Standard for subsonic aeroplanes (as the new Chapter 16).

Regarding **Volume II**, the expected proposed amendments, as set out in the above-mentioned State Letter, include

(a) applicability language improvements and introduction of the new terms "parent engine" and "no emissions change criteria" to increase consistency and practical clarity for the users;

(b) updates to the symbols and definitions to be consistent with Appendix 3 for use in the emission indices calculations, and introduction of three methods to determine the maximum non-volatile Particulate Matter (nvPM) mass concentration and three methods to determine maximum nvPM mass and number emission indices;

(c) introduction of a new nvPM certification point reporting requirement for 57.5 per cent of rated thrust to the list of reference points to be determined for nvPM mass and nvPM number emissions;

(d) alignment of provisions with the SAE Aerospace Recommended Practices ARP6320B "Procedure for the Continuous Sampling and Measurement of Non-volatile Particulate Matter Emissions from Aircraft Turbine Engines" and SAE ARP6481A "Procedure for the Calculation of nvPM Sampling and Measurement System Losses and System Loss Correction Factors".

Regarding **Volume III**, the expected proposed amendments, as set out in the above-mentioned State Letter, include

(a) introduction of a new CO2 Standard for subsonic aeroplanes with 10 per cent / 3 per cent more stringent limits for large/small aeroplanes with an applicability date on 31 December 2031 for new aeroplane types, and more stringent emissions standard for in-production aeroplane types applicable on 1 January 2035;

(b) adjustments to increase the clarity and precision of terms, and to ensure the adequate and correct addressing of the different compliance methods (direct flight testing and performance models), for the purpose of specific air range (SAR) determination and reporting procedures.

[1] SL 25/68, SL 25/69, and SL 25/67.

All proposed amendments are envisaged to become applicable on 1 January 2027.

The subject matter of the envisaged act concerns an area for which the Union has exclusive external competence by virtue of the last limb of Article 3(2) TFEU as the envisaged acts are liable to affect common rules or alter their scope, namely:

– Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91;[2] and

– Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental protection certification or declaration of compliance of aircraft and related products, parts, appliances, control and monitoring units and control and monitoring unit components, as well as for the capability requirements of design and production organisations[3].

3.2. Position to be taken on behalf of the Union

Having regard to the relevant Union legislation, the position to be taken on behalf of the Union in the ICAO Council should be to support the proposed amendments to Volumes I, II and III.

The proposed amendments to the standards are an important step forward, in line with Union policies and should be welcomed. While some amendments may already align with existing practices of some manufacturers, and may not require radical design changes or the development of new technologies, their adoption by the ICAO Council is consistent with the Union's policies, promotes consistency at global level, and fosters a positive environment for continued innovation.

Hence, the position to be taken on the Union’s behalf, provided the ICAO Council adopts without any substantial change the proposed Amendments to Annex 16 – *Environmental Protection,* should be to not notify any disapproval, but to comply with the adopted measures in reply to the respective ICAO State Letter. Where Union legislation would deviate from the newly adopted ICAO Standards after an envisaged date of application of those Standards, the Union position on the differences with those particular Standards should be notified to ICAO by Member States, on the basis of a preparatory document submitted in due time by the Commission to the Council for discussion and approval, and setting out the detailed differences for the time necessary to complete the implementation.

4. CONSISTENCY WITH OTHER UNION POLICIES

The proposed Decision is consistent with and complements other policies of the Union, notably energy, environmental and transport policies.

[2] OJ L 212, 22.8.2018, p. 1.
[3] OJ L 224, 21.8.2012, p. 1.

5. LEGAL BASIS

5.1. Procedural legal basis

5.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement[4].

The concept of 'acts having legal effects' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[5].

5.1.2 Application to the present case

The ICAO Council is a body set up by an agreement, namely the Chicago Convention.

The envisaged acts have legal effects for the purposes of Article 218(9) TFEU. In accordance with Article 54 of the Chicago Convention, the ICAO Council adopts international Standards and Recommended Practices (SARPs), designated as Annexes to the Chicago Convention. Such SARPs are binding under international law in accordance with Article 90 of the Chicago Convention in so far as they become binding for all ICAO contracting parties unless a majority of the latter register their disapproval with the ICAO Council.

Further, by potentially leading to amendments, the envisaged acts are capable of decisively influencing the content EU legislation, namely Regulation (EU) 2018/1139, Commission Regulation (EU) No 748/2012 in so far as they explitly refer to Annex 16, Volumes I-III to the Chicago Convention.

The envisaged acts do not supplement or amend the institutional framework of the agreement.

Therefore, the adoption of the Union position in respect of such notifications falls within the scope of Article 218(9) of the TFEU.

5.2. Substantive legal basis

5.2.1 Principle

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the adopted act in respect of which a position is taken on the Union's behalf.

If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the

[4] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraph 64.

[5] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

5.2.2 Application to the present case

The main objective and content of the adopted act relate to transport policy.

In accordance with Article 192(1) and 191 of the TFEU, the European Union shall contribute to the pursuit, *inter alia*, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

The substantive legal basis of the proposed decision is Article 100(2) of the TFEU.

5.3. Conclusion

The legal basis of the proposed decision should be Article 100(2) TFEU, in conjunction with Article 218(9) TFEU.

2026/0042 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the 237th session of the Council of the International Civil Aviation Organization (ICAO), in respect of amendments 3, 12 and 15 of Annex 16, Volume I-III of the Chicago Convention concerning Standards and Recommended Practices relating to environmental protection

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Convention on International Civil Aviation ('the Chicago Convention'), which regulates international air transport, entered into force on 4 April 1947. It established the International Civil Aviation Organization (ICAO).

(2) All Member States are Contracting States of the Chicago Convention and members of the ICAO, whereas the Union has observer status in certain ICAO bodies. There are six Member States represented in the ICAO Council.

(3) Pursuant to Article 54 of the Chicago Convention, the ICAO Council may adopt International Standards and Recommended Practices (SARPs).

(4) The SARPs on Environmental Protection have been adopted as Annex 16 to the Chicago Convention by the ICAO Council.

(5) The ICAO Council, during its 237th session, is to adopt a number of amendments to Annex 16 to the Chicago Convention.

(6) It is appropriate to establish the position to be taken on the Union's behalf in the ICAO Council as the proposed amendments have legal effect, given that they are binding under international law and are capable of decisively influencing the content of Union law, namely Regulation (EU) 2018/1139[6], and Commission Regulation (EU) No 748/2012[7].

---

[6] Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1).

[7] Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental protection certification or declaration of compliance of aircraft and related products, parts, and appliances, control and monitoring units and control and monitoring unit components, as well as for the capability requirements certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

(7) The position to be taken on the Union's behalf should be to support the proposed amendments 3, 12 and 15 to Annex 16 to the Chicago Convention.

(8) The Union's position should be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly on behalf of the Union.

(9) The Union's position after the adoption of the proposed amendments 3, 12 and 15 to Annex 16 to the Chicago Convention by the ICAO Council, to be announced by the ICAO Secretary General via an ICAO State Letter procedure, should be to not register any disapproval and to comply with the amendments. Where Union legislation would deviate from the newly adopted SARPs after an envisaged date of application of those SARPs, a difference with those particular SARPs should be notified to ICAO. The Union position with respect of such difference should be based on a written document submitted by the Commission to the Council for discussion and approval.

HAS ADOPTED THIS DECISION:

Article 1

(1) The position to be taken on the Union's behalf in the 237th session of the ICAO Council, or in any subsequent session, in respect of amendments 3, 12 and 15 of Annex 16, Volumes I-III to the Convention on International Civil Aviation, shall be to support the proposed amendments in their entirety.

(2) The position to be taken on the Union's behalf, provided the ICAO Council adopts without any substantial change the proposed amendments 3, 12 and 15 of Annex 16, Volumes I-III to the Chicago Convention referred to in paragraph 1, shall be to not register any disapproval and to notify compliance with the adopted measure in reply to the respective ICAO State Letter. Where Union legislation would deviate from the newly adopted international standards after the envisaged date of application of those standards, a difference with those particular internatioal standards shall be notified to ICAO, in accordance with Article 38 of the Chicago Convention.

In the event that Union legislation differs from the standards contained in the Annex 16 to the Chicago Convention, the Commission shall, in due time and at least two months before any deadline set by the ICAO for the notification of differences, submit to the Council, for discussion and approval, a preparatory document setting out the Union position on the detailed differences to be notified to the ICAO on the Union's behalf by the Member States.

Article 2

The position referred to in Article 1(1) shall be expressed by the Member States of the Union that are members of the ICAO Council, acting jointly in the interest of the Union.

The position referred to in Article 1(2) shall be expressed by all the Member States of the Union, acting jointly in the interest of the Union.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President